IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION.

INCOME TAX APPEAL (LODGING) No.146/2004.

The Commissioner of Income Tax,
Mumbai City-6, Mumbai. ..Appellant.

Vs.

M/s. Lona Industries Ltd. Respondent.

Mr A. D. Kango, for the Appellant.

S.M. Shah for the Respondent.

CORAM:DR.S. RADHAKRISHNAN
AND V.C. DAGA,JJ.
DATED:17th April, 2007.

P.C.:-

1. Heard the learned counsel for the appellant and the learned counsel for the respondent.

2. In the above appeal, the following question of law was sought to be raised.

> Whether the Assessing Officer is justified in making the disallowance of Rs. 4,34,417/- for the expenses of the assessee under Section 40-A(2) of the Act on account of the under invoicing of the sales made to the sister concerns, M/s. Sanjay Sales Corporation?"

3. We have perused the order passed by the Tribunal dated 11th December, 2002. Paragraph

no.2 categorically mentions that the issue raised is squarely covered by the order of the Tribunal in Assessee's own case for the Assessment Years 1990-91 and 1992-93 in ITA No. 6611/Bom/95. The learned counsel for the appellant is unable to produce any record so as to indicate that the said order was challenged before this Court.

4. As the appellant has already accepted for the earlier assessment year, we dismiss this appeal.

(V.C.DAGA,J.) **(DR.S. RADHAKRISHNAN,J.)**